

McKENNA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: *6/24/08*

Direct Marketing Educational Foundation, Inc.

Plaintiff,

- against -

John Wiley & Sons, Inc.,

Defendant.

Case No. 08 Civ. 1464 (*LMM*)

+ ORDER
STIPULATION OF DISCONTINUANCE
1

WHEREAS, plaintiff Direct Marketing Educational Foundation, Inc. ("DMEF") filed a complaint on February 15, 2008 seeking preliminary and permanent injunctive relief to prevent defendant John Wiley & Son ("Wiley") from making unauthorized use of DMEF's trademark JOURNAL OF INTERACTIVE MARKETING ("DMEF's Trademark") and seeking a declaratory judgment regarding DMEF's right to continue the volume and issue numbering sequence associated with the journal published under DMEF's Trademark;

WHEREAS, the Court issued a temporary restraining order on February 15, 2008 prohibiting Wiley's unauthorized use of DMEF's Trademark;

WHEREAS, the Court issued a preliminary injunction on March 25, 2008 prohibiting Wiley's unauthorized use of DMEF's Trademark;

WHEREAS, Wiley filed an answer asserting counterclaims against DMEF on May 2, 2008, alleging breach of contract, breach of the covenant of good faith and fair dealing, and false advertising, and seeking a declaratory judgment regarding Wiley's ownership of the numbering sequence associated with the Journal of Interactive Marketing;

WHEREAS, the parties are interested in resolving the issues alleged in the complaint and in the counterclaims in this action, and have negotiated in good faith for that purpose and have entered into a settlement agreement; and

WHEREAS, the parties in the above-captioned action wish to discontinue the litigation;

IT IS STIPULATED AND AGREED by and between the undersigned that the above-entitled action, and any and all claims and counterclaims which are the subject of this action or otherwise arise out of any of the incidents alleged in the complaint or in the answer and counterclaims, are hereby discontinued with prejudice and without costs to any party, and that DMEF may release the \$100,000 bond posted as security for the aforementioned temporary restraining order and preliminary injunction.

Dated: New York, NY
June 16, 2008

PAUL, HASTINGS, JANOFSKY
& WALKER, LLP

By: Robert L. Sherman
Robert L. Sherman (RS 5520)

Attorneys for Plaintiff
75 East 55th Street
New York, NY 10022
(212) 318-6000 (telephone)
(212) 318-6847 (facsimile)

ASHIMA AGGARWAL

By: Ashima Aggarwal
Ashima Aggarwal (AA 1444)

John Wiley & Sons, Inc.
111 River Street
Hoboken, NJ 07030-5774
(201) 748-6000 (telephone)
(201) 748-6500 (facsimile)

SO ORDERED:

W. N. 6/24/08
United States District Judge